IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 30667 of 1998

Between:

M. Sanjeeva, S/o. Premdas,
R/o. Warangal District.

..... PETITIONER

AND

1.The Presiding Officer, Industrial Tribunal-cum-Labour Court,
Godavarikhani.
2.The Depot Manager, A.P.S.R.T.C.,
Huzurabad Depot, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of *Writ of Certiorari* or any other appropriate writ after calling for the records from the 1st Respondent in the award of I.D.No.51/91 and consequently direct the 2nd Respondent to reinstate the petitioner into service with full back wages and other relief or reliefs as fit, and proper in the circumstances of the case.

Counsel for the Petitioner: MR.Y.SUBBA RAO

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: P. Rajani, S.C for APSRTC

The Court made the following :

ORDER:

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This writ petition is filed by the Workman being aggrieved by the award passed in I.D.No.51 of 1991 dated 17.02.1992 by the Chairman, Industrial Tribunal-cum-Labour Court (for short 'the Tribunal'), wherein the claim petition filed by the petitioner under Section 2-A (2) of the I.D. (A.P. Amendment) Act, 1987 (for short 'the Act') has been rejected by the first respondent and no relief was granted.

2. It is the case of the petitioner that he joined as conductor in the APSRTC w.e.f. 12.11.1975 and he was attending his duties regularly and to the satisfaction of all his superiors. While so, on 27.01.1981 while he was conducting the service bus bearing No.AP Z 8636 on the route of Huzurabad to Parkal, a check was exercised by the checking officials at stage No.6 i.e. Kamalapur at about 17.10 hrs and certain cash and ticket irregularities were found and a charge memo dated 27.01.1981 was issued by the checking officials and basing on the said charge memo, the 2nd respondent-management had issued a charge sheet dated 06.02.1981 to the petitioner. In pursuance of the said charge sheet, the petitioner submitted his explanation and having not satisfied with the explanation, the management conducted a detailed enquiry into the matter and after following due procedure, the second respondent had issued an order of removal from service vide proceedings No.02/104(27)/81 – HZB, dated NIL. Therefore, the petitioner raised a dispute under Section 2-A (2) of the I.D. Act before the first respondent. The first respondent, after considering the material available on record, dismissed the said I.D. through an award dated 17.2.1992. Hence, the writ petition.

3 . The respondent-management filed a detailed counter affidavit denying the allegations made by the petitioner and it was asserted that the petitioner was appointed on 12.12.1975 in the APSRTC and during the relevant period, he was inflicted with several punishments like censured once, some amount was forfeited twice, annual increments deferred twice, severely warned once, placed under suspension once, and removed from service once prior to this case. Thus, he is bereft of clean record, and hence, the petitioner does not deserve any relief. Before, the Tribunal, though no oral evidence was let in by both the parties, marked Exs.M.1 to M.16 on behalf of the respondent-management and no documents were marked on behalf of the workman. On the basis of the evidence available on record, the

Tribunal came to a conclusion that there are no mitigating and extenuating circumstances to award a lenient punishment to the petitioner than the one given by the respondent-management and even to award a lesser punishment to the petitioner by exercising powers conferred on it by the Central Legislature by enacting Section 11-A of the I.D. Act. Consequently, the Tribunal held that the petition is bound to fail and accordingly dismissed. Aggrieved by the said order, the present writ petition has been filed.

4. The learned counsel for the petitioner strenuously contended that no enquiry was conducted against the petitioner and the Offence is trivial in nature. The punishment of removal from service was disproportionate to the misconduct alleged by the Corporation. Therefore, the Tribunal committed an error in rejecting the case of the petitioner.

5. I have given my earnest consideration to the submissions made by the learned counsel on either side and perused the award passed by the Tribunal.

6. At the out set, I am of the view that the Tribunal has not committed any error in passing the award calling for the interference of this Court under Article 226 of Constitution of India. It is curious to notice that though the petitioner was removed from service by an order dated 09.12.1981, the petition under Section 2-A 2 of the I.D. Act was filed in the year 1991 i.e. after more than a decade. However, the Tribunal has taken the same on file and after due adjudication, found that the petitioner is not entitled for any relief. The charges as such are grave in nature.

7. So far as the first charge is concerned, it was only a violation of the rule of issue and start. Under the second charge, the petitioner failed to issue the tickets to a passenger, who boarded the bus at stage No.1, and who was bound for Kamalapur. Thus, the petitioner having collected the requisite fare, failed to issue tickets, though the bus had travelled more than five stages. Under Charge No.3, he collected the fare and did not issue tickets to the passengers, who boarded the bus at stage No.4 and 5 and to bound at stage No.6. Under charge No.4, he failed to collect fare and

also issue tickets to a batch of 8 passengers, who boarded the bus at Uppal station, and found traveling without tickets, bound for Shaingaram, at stage No.4/5 to 6. This would go to show that in case there is no check, the petitioner would have diverted the amounts of the Corporation. Further, he closed the ticket tray numbers of all the denominations in the S.R. against stage No.6 without issuing the tickets. All these charges were proved in full and the Tribunal has rightly come to a conclusion that the petitioner is found guilty of the charges. The petitioner was inflicted with several punishments like censure once, forfeited amounts twice, annual increments deferred twice, severely warned once, placed under suspension once, removed from service once prior to this writ petition.

8. Viewed from any angle, the award passed by the Tribunal does not call for any interference of this Court under Article 226 of the Constitution of India and thus, the writ petition is totally devoid of merits and is liable to be dismissed.

9. Accordingly, the writ petition is dismissed. No order as to costs.

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(C.V. RAMULU, J)

Date: 06.07.2005

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Presiding Officer, Industrial Tribunal-cum-Labour Court,
Godavarikhani.
2.The Depot Manager, A.P.S.R.T.C.,
Huzurabad Depot, Karimnagar.

3. 2 CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT)

4. 2 CD copies

5. 1 CC to MR.RAVI MOHAN

*Form-NIC-OGS/WP{**KMR**}*